

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
SOUTHERN DIVISION

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UNITED STATES OF AMERICA, <i>ex rel.</i>	*	CIV 16-4115
C. Dustin Bechtold, M.D. and	*	
Bryan Wellman, M.D.,	*	
	*	
Plaintiff/Relators	*	
	*	
vs.	*	RULE 16
	*	SCHEDULING ORDER
WILSON ASFORA, M.D.;	*	
MEDICAL DESIGNS, LLC.; and	*	
SICAGE, LLC.,	*	
	*	
Defendants.	*	
	*	

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Counsel for the parties having held a planning meeting in compliance with Fed.R.Civ.P. 26(f), and submitted their separate reports thereon, and now, therefore,

IT IS ORDERED:

1. That the Reports of Parties' Planning Meeting are hereby approved and adopted in part and denied in part by the Court.
2. That the parties shall have until April 1, 2021, to move to join additional parties and to amend the pleadings.
3. That all fact discovery shall be commenced in time to be completed by December 24, 2021.

All discovery requests must be served so as to be completed by this date. The parties may stipulate to an extension of the discovery deadline if an extension is required. Any such extension is subject to Court approval.

Each Defendant shall inform the United States in writing whether it intends to rely on advice of counsel as a defense, and if so, to produce any such opinions on which Defendant intends to rely by February 1, 2021.

The parties may submit a separate stipulation to the Court regarding

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4. That a maximum of fifty (50) interrogatories by Plaintiff to Defendants and by Defendants to Plaintiff; and fifty (50) requests for admission by Plaintiff to Defendants and by Defendants to Plaintiff will be allowed, and responses thereto shall be due thirty (30) days after service. Discovery responses must be supplemented as additional information is available.
5. That there will be a maximum of thirty-five (35) depositions for the Plaintiff and thirty-five (35) depositions for the Defendants, including (a) depositions of patients identified by Plaintiff as individuals on whom Dr. Asfora allegedly performed a medical procedure that was not medically necessary and (b) depositions of Rule 30(b)(6) representatives and expert witnesses; and each deposition shall be limited to seven (7) hours.
6. That the experts' identities and expert reports and disclosures on issues for which the party bears the burden of proof are to be disclosed by February 1, 2022.

Pursuant to Rule 26(a)(2)(D)(ii), absent a stipulation or court order, expert disclosures intended solely to contradict or rebut evidence on the same subject matter identified by another party under Rule 26(a)(2)(B) or (C), must be made within 30 days after the other party's disclosure. Accordingly, responsive expert reports and disclosures are due by March 2, 2022.

All expert discovery is to be completed by April 1, 2022.

Each party who has made a disclosure or responded to an interrogatory, request for production, or request for admission must supplement or correct its disclosure or response in a timely manner (within 30 days) upon learning that in some material respect the disclosure or response is incomplete or incorrect, and if the additional or corrective information has not otherwise been made known to the other party during the discovery process, and in no event later than thirty (30) days before trial.

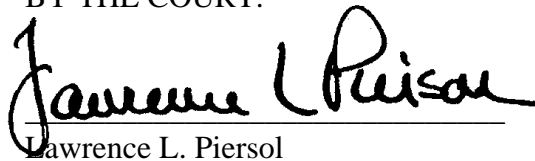
7. That a deposition may be taken of each designated expert.
8. That all dispositive and *Daubert* motions, other than motions in limine, together with supporting briefs, shall be filed and served on or before May 13, 2022; that opposing parties shall file and serve answering materials and briefs on or before June 3, 2022; and reply

briefs shall be filed and served on or before June 17, 2022.

9. That the final date for submitting Rule 26(a)(3) witness lists, designations of witnesses whose testimony will be presented by deposition, and exhibit lists shall be thirty (30) days before the pre-trial conference; and the final date for the parties to file objections, if any, under Rule 26(a)(3) is twenty (20) days before the pre-trial conference.
10. All motions in limine, with supporting authority, shall be in writing and filed, together with proposed instructions, with supporting authority, with the Court thirty (30) days before the pre-trial conference.
11. That all motions not previously disposed of will be heard and a pre-trial conference will be held on Monday, August 29, 2022, at 10:00 A.M. The lawyer who will be the lead trial counsel at trial for each of the parties is to be in attendance at the pre-trial conference unless specifically excused by the Court from being in attendance.
12. That jury trial will commence in Sioux Falls, South Dakota, on Tuesday, October 4, 2022, with counsel to be present at 9:00 A.M., for the Court to rule on any previously filed motions in limine that the Court has not ruled upon, and with the jury to report at 9:30 A.M.
13. That the parties shall promptly contact the Magistrate after the Court has ruled on dispositive motions so that the possibility of settlement discussion with the assistance of the Magistrate can be pursued.
14. That the schedule herein may be modified by the Court upon a showing of good cause.

Dated this 4th day of December, 2020.

BY THE COURT:



Lawrence L. Piersol  
United States District Judge

ATTEST:  
MATTHEW W. THELEN, CLERK

